

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7178 OF 2007

Smt.Chandrbhagabai w/o. Dada

Kadam and ors.

...Petitioners

Versus

Namdeo Yeshwant Ugale,

(Deceased, through his legal heirs

1A. Chabubai Namdeo Ugale & Ors. Respondents

N.M.Sathaye, for the petitioners.

None for the respondents.

CORAM: S.C.DHARMADHIKARI, J.

14th December, 2007.

P.C. :

1. Mr.Sathye, appearing for the petitioner fairly states that the application filed before the Lower Appellate Court although styled as "request to frame additional issues", in essence it is seeking permission

for raising appropriate pleas and more particularly elaborating the ground in the Memo of Appeal. It is for the Lower Appellate Court to frame the points for determination and that is a matter exclusively within the domain of the court. If the application is not for framing any additional issues and the contentions based upon non-joinder of necessary party and the decree being vitiated by fraud having been raised before the courts below, so also in the Memo of Appeal, I see no reason as to why, despite the rejection of the Application, Exhibit-33, the petitioner cannot urge before the Lower Appellate Court that the subject decree is required to be set aside on these grounds as well. In such circumstances, and with this clarification there is no need to interfere with the impugned order. Petition dismissed. No costs.

. All concerned to act on an authenticated copy of this order.
